



**STATE OF NORTH CAROLINA  
OFFICE OF ADMINISTRATIVE HEARINGS**

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January 20, 2011

Nancy Pate  
1601 Mail Service Center  
Raleigh, NC 27699-1601

Re: 15A NCAC 07M .0402

Dear Ms. Pate:

At its January 20, 2011 meeting the Rules Review Commission objected to the above-captioned rule in accordance with G.S. 150B-21.10.

The Commission objected to this Rule based on ambiguity. It is unclear who or what this rule applies to. It is unclear what type of projects or facilities the need for the impact assessment detailed in this rule applies to.

Paragraph (a) refers to “a proposed project” in the first sentence, an “energy facility” in (a)(8), “the facility” in (a)(10), “energy exploration or development activities in the last paragraph of (a) page 2 at line 17, and “major energy facilities” in (b). In addition the rules before and after this rule seem to apply unevenly to all “energy facilities” and only “major energy facilities.”

The rule should be rewritten to more clearly specify the “projects” or “proposed projects” this rule applies to, especially whether it applies only to projects that will become a major energy facility, as well as defining an “energy facility” to determine the difference between it and a “major energy facility” so that it is clear what the other rules refer to.

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Please respond to this letter in accordance with the provisions of G.S. 150B-21.12. If you have any questions regarding the Commission's action, please let me know.

Sincerely,

Joseph J. DeLuca, Jr.  
Commission Counsel

JJD:jbe